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CITY AND COUNTY OF SAN FRANCISCO

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

METRO FUEL LLC, a Delaware limited liability company,

Plaintiff,

VS.

CITY OF SAN FRANCISCO, a municipal corporation, COUNTY OF SAN FRANCISCO, a subdivision of the State of California, CITY AND COUNTY OF SAN FRANCISCO, a chartered California city and county and DOE 1 through DOE 10,

Defendants.

Case No. C07-6067 JSW

**DEFENDANT CITY AND COUNTY OF
SAN FRANCISCO'S REQUEST FOR
JUDICIAL NOTICE IN SUPPORT OF
MOTION FOR JUDGMENT ON THE
PLEADINGS**

Hearing Date: November 14, 2008
Time: 9:00 A.M.
Place: Courtroom 2, 17th Fl.

Trial Date: October 26, 2009

Pursuant to Rule 201, Defendant the City and County of San Francisco, sued herein as the City of San Francisco, County of San Francisco, and City and County of San Francisco (collectively, "the City" or "San Francisco") hereby requests that the Court take judicial notice of numerous documents described below. "A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned." Fed. R. Evid. 201(b). San Francisco hereby requests that the Court take judicial notice of the following documents:

Exhibit Description

- A** San Francisco, Cal., Planning Code art. 6 (2007). *Santa Monica Food Not Bombs v. City of Santa Monica*, 450 F.3d 1022, 1025 n.2 (9th Cir. 2006) (ordinances are proper subjects of judicial notice).
- B** San Francisco, Cal., Voter Information Pamphlet And Sample Ballot, Consolidated Primary Election, March 5, 2002 ("Proposition G"). *Gay-Straight Alliance Network v. Visalia Unified Sch. Dist.*, 262 F. Supp. 2d 1088, 1100 (E.D. Cal. 2001) (taking judicial notice of certified copies of official records showing registration of school district with roster of public agencies maintained by county recorder's office and Secretary of State); *Natural Resources Defense Council v. Kempthorne*, 539 F. Supp. 2d 1155, 1167 (E.D. Cal. 2008) (documents prepared by a government agency that are public records are noticeable).
- C** San Francisco, Cal., Consolidated Primary Election Results, March 5, 2002, Proposition G. *Gay-Straight Alliance Network v. Visalia Unified Sch. Dist.*, 262 F. Supp. 2d 1088, 1100 (E.D. Cal. 2001) (taking judicial notice of certified copies of official records showing registration of school district with roster of public agencies maintained by county recorder's office and Secretary of State); *Natural Resources Defense Council v. Kempthorne*, 539 F. Supp. 2d 1155, 1167 (E.D. Cal. 2008) (documents prepared by a government agency that are public records are noticeable).
- D** San Francisco, Cal., Ordinance 140-06 (June 20, 2006). *Santa Monica Food Not Bombs v. City of Santa Monica*, 450 F.3d 1022, 1025 n.2 (9th Cir. 2006) (ordinances are proper subjects of judicial notice)
- E** San Francisco, Cal., Voter Information Pamphlet And Sample Ballot, Consolidated Primary Election, November 6, 2007 ("Proposition K"). *Gay-Straight Alliance Network v. Visalia Unified Sch. Dist.*, 262 F. Supp. 2d 1088, 1100 (E.D. Cal. 2001) (taking judicial notice of certified copies of official records showing registration of school district with roster of public agencies maintained by county recorder's office and Secretary of State); *Natural Resources Defense Council v. Kempthorne*, 539 F. Supp. 2d 1155, 1167 (E.D. Cal. 2008) (documents prepared by a government agency that are public records are noticeable).

- F** San Francisco, Cal., Consolidated Primary Election Results, November 6, 2007, Proposition K. *Gay-Straight Alliance Network v. Visalia Unified Sch. Dist.*, 262 F. Supp. 2d 1088, 1100 (E.D. Cal. 2001) (taking judicial notice of certified copies of official records showing registration of school district with roster of public agencies maintained by county recorder's office and Secretary of State); *Natural Resources Defense Council v. Kempthorne*, 539 F. Supp. 2d 1155, 1167 (E.D. Cal. 2008) (documents prepared by a government agency that are public records are noticeable).

G San Francisco, Cal. Legislative File No. 080658 (introduced May 13, 2008). *Chaker v. Crogan*, 428 F.3d 1215, 1223 n.8 (9th Cir. 2005) (granting request for judicial notice of the legislative history of state statute); *Natural Resources Defense Council v. Kempthorne*, 539 F. Supp. 2d 1155, 1167 (E.D. Cal. 2008) (documents prepared by a government agency that are public records are noticeable).

H City and County of San Francisco, Department of Public Works, Amended Order No. 177,159 (Sept. 26, 2007). *Barron v. Reich*, 13 F.3d 1370, 1377 (9th Cir. 1994) (court may take judicial notice of records and reports of administrative bodies); *Natural Resources Defense Council v. Kempthorne*, 539 F. Supp. 2d 1155, 1167 (E.D. Cal. 2008) (documents prepared by a government agency that are public records are noticeable).

I City and County of San Francisco, Department of Public Works, Amended Order Nos. 163,368 (Sept. 8, 1993) and 169,739 (May 5, 1996). *Barron v. Reich*, 13 F.3d 1370, 1377 (9th Cir. 1994) (court may take judicial notice of records and reports of administrative bodies); *Natural Resources Defense Council v. Kempthorne*, 539 F. Supp. 2d 1155, 1167 (E.D. Cal. 2008) (documents prepared by a government agency that are public records are noticeable).

J City and County of San Francisco, Department of Public Works, Amended Order No. 163,369 (Sept. 8, 1993). *Barron v. Reich*, 13 F.3d 1370, 1377 (9th Cir. 1994) (court may take judicial notice of records and reports of administrative bodies); *Natural Resources Defense Council v. Kempthorne*, 539 F. Supp. 2d 1155, 1167 (E.D. Cal. 2008) (documents prepared by a government agency that are public records are noticeable).

K City and County of San Francisco, Department of Public Works, Guidelines Regarding Regulation of News Racks (Nov. 2, 2005). *Barron v. Reich*, 13 F.3d 1370, 1377 (9th Cir. 1994) (court may take judicial notice of records and reports of administrative bodies); *Natural Resources Defense Council v. Kempthorne*, 539 F. Supp. 2d 1155, 1167 (E.D. Cal. 2008) (documents prepared by a government agency that are public records are noticeable).

L San Francisco, Cal., Charter, art. V (2006). *Aramark Facility Servs. V. Service Employees Int'l Union*, 530 F.3d 817, 826 n.4 (9th Cir. 2008) (taking judicial notice of legislative materials); *Natural Resources Defense Council v. Kempthorne*, 539 F. Supp. 2d 1155, 1167 (E.D. Cal. 2008) (documents prepared by a government agency that are public records are noticeable).

M City and County of San Francisco, San Francisco Arts Commission Civic Design Review Submission Guidelines. *Barron v. Reich*, 13 F.3d 1370, 1377 (9th Cir. 1994) (court may take judicial notice of records and reports of administrative bodies); *Natural Resources Defense Council v. Kempthorne*, 539 F. Supp. 2d 1155, 1167 (E.D. Cal. 2008) (documents prepared by a government agency that are public records are noticeable).

- N** San Francisco Arts Commission, Civic Design Review Committee, Minutes (Sept. 17, 2007). *Barron v. Reich*, 13 F.3d 1370, 1377 (9th Cir. 1994) (court may take judicial notice of records and reports of administrative bodies); *Natural Resources Defense Council v. Kempthorne*, 539 F. Supp. 2d 1155, 1167 (E.D. Cal. 2008) (documents prepared by a government agency that are public records are noticeable).

O San Francisco Arts Commission, Civic Design Review Committee, Minutes (Oct. 15, 2007). *Barron v. Reich*, 13 F.3d 1370, 1377 (9th Cir. 1994) (court may take judicial notice of records and reports of administrative bodies); *Natural Resources Defense Council v. Kempthorne*, 539 F. Supp. 2d 1155, 1167 (E.D. Cal. 2008) (documents prepared by a government agency that are public records are noticeable).

P San Francisco Arts Commission, Civic Design Review Committee, Minutes (Feb. 25, 2008). *Barron v. Reich*, 13 F.3d 1370, 1377 (9th Cir. 1994) (court may take judicial notice of records and reports of administrative bodies); *Natural Resources Defense Council v. Kempthorne*, 539 F. Supp. 2d 1155, 1167 (E.D. Cal. 2008) (documents prepared by a government agency that are public records are noticeable).

Q San Francisco Arts Commission, Civic Design Review Committee, Minutes (June 16, 2008). *Barron v. Reich*, 13 F.3d 1370, 1377 (9th Cir. 1994) (court may take judicial notice of records and reports of administrative bodies); *Natural Resources Defense Council v. Kempthorne*, 539 F. Supp. 2d 1155, 1167 (E.D. Cal. 2008) (documents prepared by a government agency that are public records are noticeable).

R San Francisco Arts Commission, Minutes (Dec. 3, 2007). *Barron v. Reich*, 13 F.3d 1370, 1377 (9th Cir. 1994) (court may take judicial notice of records and reports of administrative bodies); *Natural Resources Defense Council v. Kempthorne*, 539 F. Supp. 2d 1155, 1167 (E.D. Cal. 2008) (documents prepared by a government agency that are public records are noticeable).

S San Francisco, Cal., Public Works Code art. 5.4 (2007). *Santa Monica Food Not Bombs v. City of Santa Monica*, 450 F.3d 1022, 1025 n.2 (9th Cir. 2006) (ordinances are proper subjects of judicial notice).

San Francisco, Cal., Public Works Code art. 5.7 (2007). *Santa Monica Food Not Bombs v. City of Santa Monica*, 450 F.3d 1022, 1025 n.2 (9th Cir. 2006) (ordinances are proper subjects of judicial notice).

T Notices of Violation from the San Francisco Planning Department. *Barron v. Reich*, 13 F.3d 1370, 1377 (9th Cir. 1994) (court may take judicial notice of records and reports of administrative bodies); *Natural Resources Defense Council v. Kempthorne*, 539 F. Supp. 2d 1155, 1167 (E.D. Cal. 2008) (documents prepared by a government agency that are public records are noticeable).

U Notices of Violation and Order of Abatement from Department of Building Inspection. *Barron v. Reich*, 13 F.3d 1370, 1377 (9th Cir. 1994) (court may take judicial notice of records and reports of administrative bodies); *Natural Resources Defense Council v. Kempthorne*, 539 F. Supp. 2d 1155, 1167 (E.D. Cal. 2008) (documents prepared by a government agency that are public records are noticeable).

V Los Angeles, Cal., Municipal Code, div. 62 (1996). *Santa Monica Food Not Bombs v. City of Santa Monica*, 450 F.3d 1022, 1025 n.2 (9th Cir. 2006) (ordinances are proper subjects of judicial notice).

1 W Miami, Fl., Zoning Ordinance, art. 10 (2007). *Santa Monica Food Not Bombs v. City*
2 *of Santa Monica*, 450 F.3d 1022, 1025 n.2 (9th Cir. 2006) (ordinances are proper
3 subjects of judicial notice).

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6 Dated: August 29, 2008

7 Respectfully submitted,

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